THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14993 of 1996

ORAL ORDER:

This writ petition is filed seeking Mandamus to direct the respondents to waive the recovery ordered by the third respondent vide proceedings dated 29.6.1996 by nullifying the same.

It appears, petitioner was working as Junior Assistant (Material) at Zonal Stores, Vizianagaram. While so, he undergone Vasectomy operation and he was granted two advance increments @ Rs.15/- each in terms of Circular No.PD-53/1982-83 dated 6.9.1982 by the Chief Personnel Manager, Hyderabad with effect from30.12.1983. Subsequently, the said operation undergone by the petitioner failed, resulting in two more issues. Thereafter, his wife undergone Tubectomy operation on 23.9.1987. The petitioner intimated the said fact to the Department. Basing on the said information, a notice dated 23.2.1996 was given to the petitioner, for which he submitted his explanation. Thereafter, the impugned proceedings dated 29.6.1996 was passed withdrawing the two advance increments granted to the petitioner and further directed to re-fix the salary and to recover the excess payments made. Hence the writ petition.

It is the case of the petitioner that failure of the operation cannot be attributed to him. The incentives were granted to him with effect from 30.12.1983 on the basis of Vasectomy operation undergone by him. Therefore, the impugned order is arbitrary and illegal.

A detailed counter affidavit has been filed denying the

allegations made by the petitioner. It is stated that the increments @ Rs.15 each were granted to the petitioner with effect from 30.12.1983 for having undergone Vasectomy operation with two living children. The purpose of granting incentives is for restricting number of children to two only. The advance increments are admissible as long as the petitioner fulfilled the criteria of limiting the family to two living children, but after giving birth to third and fourth children, the petitioner is not entitled to such incentives.

There is no necessity of going into all the details.

The fact that the petitioner was granted with two advance increments for having undergone Vasectomy operation on the basis of the certificate produced by him is not in dispute. The failure of Vasectomy operation resulted in two more children to the petitioner, thereafter, his wife has undergone Tubectomy operation. The fact that Vasectomy operation undergone by the petitioner failed is not in dispute. Once this is so, the question of recovering advance incentive increments already paid, does not arise. May be, the petitioner is not entitled for such incentives after giving birth to another two children.

In the facts and circumstances of the case, I am of the opinion that withdrawal of two advance (incentive) increments granted to the petitioner from 12.4.1984 is justified, however, to the extent of seeking recovery of amounts already paid to the petitioner is liable to be set aside and accordingly set aside.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 2.2.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14993 of 1996

2.2.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.14993 of 1996

Date: 2nd February, 2006

Between:

S.Janardhana Sarma

.. Petitioner

And

A.P.S.R.T.C., rep. by its Managing Director, Musheerabad, Hyderabad & others.

.. Respondents